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United States Senate

SELECT COMMITTEE ON SMALL BUSINESS

WASHINGTON, D.C. 20510

September 22, 1978

John R. Pike, Managing Director
Howard W. Bremer, Patent Counsel
Wisconsin Alumni Research Foundation
P. O. Box 7365
Madison, Wisconsin 53707

Dear Messrs Pike and Bremer:

Thank you for your letter concerning S. 3496, the Small Business Nonprofit Organization Patent Procedure Act, introduced by Senators Dole, Bayh and others on September 13.

As you suggest, the bill proposes a statutory solution to the problem of agency authority to enter into Institutional Patent Agreements with universities and other nonprofit organizations. Also, since the bill is cosponsored by six members of the Senate Judiciary Committee, to which it has been referred, there is indeed a potential high-level forum "for the resolution of this important policy matter."

However, the bill as introduced raises some questions, including these:

1--To qualify for an IPA, giving it first option to own the rights to inventions resulting from Government-sponsored research, a university must demonstrate that it has a technology transfer capability. The bill imposes no such requirement;

2--Sec. 207 would perpetuate one of the biggest problems faced by small, high technology firms that would like to handle Government contracts: If they do, they run the risk that the Government will move to acquire the background inventions and know-how that put them in the high-technology category in the first place; and

3--Sec. 206, conferring Freedom of Information Act exemption 4 (trade secret) status on reports of subject inventions, appears overbroad and subject to judicial interpretation as an FOIA exemption 3 (exempt from disclosure by statute) provision.

J. Pike
H. Bremer

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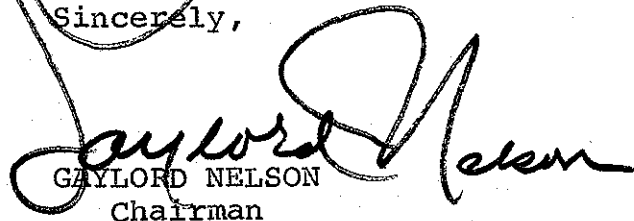
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The record of the Monopoly and Anticompetitive Activities Subcommittee hearings this May and June on IPAs, now in press, should be useful to all who are concerned about Government patent policies as well as those who will be directly involved in the consideration of S. 3496.

To indicate the extent of interest the bill has generated, it should be noted that Gerald Sturges of my committee staff participated with Nels Ackerson, chief counsel of Senator Bayh's Constitution Subcommittee, and Ackerson's colleague Joe Allen in a patent workshop yesterday at the 1978 Conference on U.S. Technological Policy sponsored by the Institute of Electrical and Electronics Engineers, Inc. The workshop was chaired by IEEE President Howard Rose.

Thank you again for letting me know your views on this bill.

Sincerely,


GAYLORD NELSON
Chairman

GN/gsy,